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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,430	03/01/2004	Thomas R. Magnuson	34743/0004	5397
30983	7590	06/16/2006		
MCDONOUGH, HOLLAND & ALLEN 555 CAPITOL MALL 9TH FLOOR SACRAMENTO, CA 95814				
			EXAMINER ALIE, GHASSEM	
			ART UNIT 3724	PAPER NUMBER

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No. 10/791,430	Applicant(s) MAGNUSON ET AL.	
	Examiner Ghassem Alie	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05/03/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05/03/06 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show that the brake release handle secured to a chain saw, the front wall of the brake release handle facing the saw chain, an extension that is engageable with the braking mechanism of the housing, the brake release handle located at a slight distance from the handle, between the handle and the saw chain, and the brake release handle pivotally journaled by a bearing or support part secured thereto as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a motor chain saw having a braking mechanism operatively attached to a brake release, as set forth in claim 41 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

It should be noted that the specification discloses, “[s]uch a motor chain saw is described in United States Patent 4,683,660, to Schurr.” However, the brake release extension in Schurr has two holes for securing the brake release rigidly to bearing member 17. See page 3, lines 2-10 in Schurr. However, Schurr does not teach a release lever having a single hole as shown in Fig. 1 of the instant application. The brake release in the instant invention is not the same as the brake release in Schurr. Therefore, there is no drawings in the instant application that shows the brake release 10 engage with a braking mechanism of a motor housing; i.e., such as the motor housing in Schurr. It should be noted that the drawings must show every feature of the invention specified in the claims.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The amendment filed 05/03/06 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: added Figs. 6 and 7 and its description on paragraphs 18-20 in specification are not supported by the original disclosure. The original disclosure fails to teach the exact location of the brake release handle on a chain saw.

The original disclosure fails to teach a chain saw that looks like the chain saw in Figs. 6-7.

The original disclosure also fails to teach that the brake release handle is simply connected to the housing of the chain saw as shown in Figs. 6-7. It should be noted that a brake release handle should pivotally engage the brake mechanism within the housing of the chain saw such as shown in Overy et al. (4,335,514) or Schurr (4,753,012). The original disclosure also does not teach that the light source illuminate the chain saw in a manner as shown in Figs. 6-7. The original disclosure also fails to teach the specific securing means or fastening means that secure the brake release handle to the housing as shown in Figs. 6-7. Therefore, the amendment to the specification and the newly submitted Figs. 6-7 introduce new matter, and they will not entered.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all Obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negative by the manner in which the invention was made.

5. Claims 41, 42, 46, 49, 50, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Overy et al. (4,335,514), hereinafter Overy, in view of Didato (5,863,112). Regarding claim 41, Overy teaches a motor chain saw having a braking mechanism 34 operatively attached to a brake release handle 36 having a front wall and a rear. See Figs. 1-3 and col. 2, lines 2-56 in Overy. Overy does not teach a light source which is secured to the brake release handle and is adapted to emanate from the front wall. However, the use of brake release handle having a light source is well known in the art such as taught by Didato.

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Didato teaches a brake release including a brake release handle 20 having a front wall, a rear wall, and a light source 22 wherein the light source is secured within the brake release handle 20 and is adapted to emanate from the front wall. The wall that includes a lens 21 defines the front wall. See Figs. 1-5 and col. 2, lines 19-67 in Didato. It would have been obvious to a person of ordinary skill in the art to provide the brake release handle in Overy's motor chain saw with a light source, as taught by Didato, in order to notify the operator where the brake is located.

Regarding claims 42, 44, 46, 49, 50, and 52, Overy, as modified by Didato, teaches everything noted above including that the front wall includes a translucent material 21. Didato also teaches that the translucent material could be plastic or glass. Didato also teaches that a power source 13 for supplying electricity to the light source. Didato also teaches that the power source is located within the brake release handle. Didato also teaches that the light source is a light emitting diode. See col. 2, lines 1-54 in Didato.

6. Claims 43, 47, 48, 51, 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Overy, in view of Didato, as applied to claim 41, and 42, and in further view of Toth et al., hereinafter Toth, or Swenson (4,588,387). Overy, as modified by Didato, teaches everything noted above, but Overy, as modified by Didato, does not explicitly teach that the light source is affixed to a plate secured within the release handle, the plate is attached to an interior surface of the rear wall, the power source is a battery, the light source includes two or more light emitting diodes, the brake release handle further includes a switch for activating the light source, and the switch is located in the rear wall. However, the use of the light source with a switch, a battery, more than two light emitting diodes are old and well

known such as taught by Toth or Swenson. Toth teaches a light source 30 affixed to a plate secured within a handle 14, the plate is attached to an interior surface of a the rear wall, a power source 20 as a battery, the light source includes two or more light emitting diodes, the handle further includes a switch 26 for activating the light source, and the switch is located in the rear wall. Toth also teaches that cover 32, which is defined as a front wall, reversibly attached to the handle 14. See Figs. 1-4 and col. 2, lines 43-67 and col. 3, lines 1-67 in Toth. Swenson also teaches a light source 26 affixed to a plate 14 secured within a handle 12, 16, the plate is attached to an interior surface of a the rear wall, a power source 30 as a battery, the light source includes two or more light emitting diodes, the handle further includes a switch 32 for activating the light source, and the switch is located in the rear wall. See Figs. 1-3 and col. 3, lines 1-50 in Swenson. It would have been obvious to a person of ordinary skill in the art to provide the light source in Overy's motor chain saw, as modified by Didato, with the battery, switch, two or more emitting diodes, and a plate secured within the brake release handle, as taught by Swenson or Toth, in order to illuminate more area around the apparatus and use an alternative power source that can be controlled by a switch other than ignition switch.

7. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Overy in view of Didato, as applied to claim 42, in further view of Budde et al. (4,774,637), hereinafter Budde. Overy, as modified by Didato, teaches everything noted above including that the translucent material is glass or plastic. Overy, as modified above, does not explicitly teach that the translucent material is plexiglass. However, the use of translucent material made from plexiglass for covering a light source is well known in the art such as taught by

Budde. Budde teaches a light source 29 having a cover 22 made from plexiglass. See col. 7, lines 16-39 in Budde. It would have been obvious to a person of ordinary skill in the art to provide the light source in Overy's motor chain saw, as modified by Didato, with the translucent cover that is made from plexiglass, as taught by Budde, in order to cover the light source with another alternative translucent cover that works the same as the other translucent covers.

8. Claims 41, 42, 44, 46, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wehle (4,693,006) in view of Casas (2002/0054491) or Brooks (2004/0125596). Regarding claim 41, Wehle teaches a motor chain saw having a braking mechanism operatively attached to a brake release handle 11 having a front wall and a rear. See Figs. 1-4 and col. 3, lines 45-51 in Wehle. It should be noted that Wehle teaches that the hand guard may be configured as a trigger lever for a chain brake. In other words, the guard 11 functions as a guard and a brake release lever. Wehle does not teach a light source which is secured to the brake release handle or the guard and is adapted to emanate from the front wall. However, the use of a light source as an illuminating means for a chain saw is well known in the art such as taught by Casas and Brooks. Casas teaches a light source 6 that is located in a guard-shaped member and is adapted to emanate from the front wall of the guard. See Fig. 2 in Casas. It should be noted that Casas does not explicitly teach that the guard is a brake release handle. However, as stated above, Wehle teaches that guard can also function as a brake release. Brooks also teaches a motor chain saw including a light source 10 located within below a hand guard 8. Brooks also teaches that the light source 10 is adapted to emanate from the front wall of the guard. See Figs. 1-3 in Brooks. It should also

be noted that Brooks does not explicitly teach that the guard is a brake release handle.

However, as stated above, Wehle teaches that guard can also function as a brake release area.

It should also be noted that the light source in Casas or Brooks could be also attached to the brake release handle, since it will function the same and illuminates the area around the chain saw as long as the light source is located in front of the chain saw. The exact location of the light source in front of the chain saw, where is located within the housing, the guard, or the brake release handle, is considered to be a design choice, since exact location of the light is not critical and the light source functions the same as long as it is located in front of the motor chain saw. In addition, the disclosure of the instant application does not disclose that the exact location of the light source is critical to the proper functioning of the light source. Therefore, it would have been obvious to provide the guard or the brake release in Wehle's motor chain saw with the light source, as taught by Casas or Brooks, in order to project a light beam at the chain and facilitate the operation of the chainsaw during the nighttime hours.

Regarding claim 42, 44, 46, and 49, Wehle, as modified by Brooks, teaches everything noted above including a power source for supplying electricity to the light source. Wehle, as modified by Brooks, also teaches a glass or plastic that inherently covers the lamp. The glass or the plastic cover is considered to be part of the guard or the release lever.

9. Claims 43, 47, 48, 50-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wehle in view of Casas or Brooks, as applied to claim 41, and in further view of Toth et al. (5,607,226), hereinafter Toth, or Swenson (4,588,387). Regarding claims 43, 47, 48, and 50-55, Wehle, as modified by above, teaches everything noted above except that the power

source is located within the guard or the handle release and includes at least a battery. Wehle also fails to teach that the light source is affixed to a plate secured within the release handle, the plate is attached to an interior surface of the rear wall, the light source includes two or more light emitting diodes, the brake release handle further includes a switch for activating the light source, and the switch is located in the rear wall. However, the use of the light source with a switch, a battery, more than two light emitting diodes are old and well known such as taught by Toth or Swenson. Toth teaches a light source 30 affixed to a plate secured within a handle 14, the plate is attached to an interior surface of a the rear wall, a power source 20 as a battery, the light source includes two or more light emitting diodes, the handle further includes a switch 26 for activating the light source, and the switch is located in the rear wall. Toth also teaches that cover 32, which is defined as a front wall, reversibly attached to the handle 14. See Figs. 1-4 and col. 2, lines 43-67 and col. 3, lines 1-67 in Toth. Swenson also teaches a light source 26 affixed to a plate 14 secured within a handle 12, 16, the plate is attached to an interior surface of a the rear wall, a power source 30 as a battery, the light source includes two or more light emitting diodes, the handle further includes a switch 32 for activating the light source, and the switch is located in the rear wall. See Figs. 1-3 and col. 3, lines 1-50 in Swenson. It would have been obvious to a person of ordinary skill in the art to provide the light source in Wehle motor chain saw, as modified above, with the battery, switch, two or more emitting diodes, and a plate secured within the brake release handle, as taught by Swenson or Toth, in order to illuminate more area around the apparatus and use an alternative power source that can be controlled by a switch other than ignition switch.

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10. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whele in view of Casas or Brooks, as applied to claim 41, and in further view of Budde et al. (4,774,637), hereinafter Budde. Wehle, as modified by above, teaches everything noted above including that the translucent material is glass or plastic. Wehle, as modified above, does not explicitly teach that the translucent material is plexiglass. However, the use of translucent material made from plexiglass for covering a light source is well known in the art such as taught by Budde. Budde teaches a light source 29 having a cover 22 made from plexiglass. See col. 7, lines 16-39 in Budde. It would have been obvious to a person of ordinary skill in the art to provide the light source in Wehle's motor chain saw, as modified by above, with the translucent cover that is made from plexiglass, as taught by Budde, in order to cover the light source with another alternative translucent cover that works the same as the other translucent covers.

Response to Amendment

11. Applicant's arguments with respect to claims 41-55 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kopras et al. (6,890,135), Cameron (2,525,588), Brock (4,319,404), McIntosh (5,313,376), Musacchia, JR. (2002/0069542), Risch (6,295,738), Merle (3,931,676), and Kruse (2004/0103857) teach a chain saw having a light source.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (too-free).

GA/ga

June 1, 2006



BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER